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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 GREGORY WAYNE LEE,

11 Petitioner,

12 v.

13 B. BIRKHOLZ, et al.,

14 Respondents.
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Case No.: 2:22-cv-07401-MEMF (DFMx)

**AMENDED ORDER ACCEPTING
FINDINGS AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE
JUDGE***

28 * The Order found at ECF No. 17 was issued in error. This Order replaces and supersedes the Order found at ECF No. 17.


1 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus
2 filed by Petitioner Gregory Wayne Lee ("Lee") (ECF No. 1), all of the records herein, the concurrently
3 filed Motion for Emergency Declaration and Preliminary Supplement¹ also filed by Lee (ECF No. 2
4 ("TRO")), the Motion to Dismiss and Opposition to Motion for Temporary Restraining Order filed by
5 Respondents B. Birkholz ("Birkholz") and C. Peterson ("Peterson") (collectively, "Respondents"),
6 and the Report and Recommendation of United States Magistrate Judge ("Report") (ECF No. 14); and
7 Lee's Objection thereto (ECF No. 15). Further, the Court has engaged in a de novo review of those
8 portions of the Report to which objections have been made. Having completed its review, the Court
9 accepts the findings and recommendations set forth in the Report.

10 Accordingly, the Court ORDERS as follows:

- 11 1. Lee's TRO is DENIED;
- 12 2. Respondents' Motion to Dismiss is GRANTED; and
- 13 3. The Petition is dismissed WITHOUT PREJUDICE for failure to exhaust
14 administrative remedies.

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16 IT IS SO ORDERED.

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18 Dated: September 28, 2023

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20 MAAME EWUSI-MENSAH FRIMPONG
21 United States District Judge
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27 ¹ Although not formally titled as such, the arguments and representations made in this motion indicate that Lee
28 intends for the motion be treated as a temporary restraining order ("TRO"). As such, the Court has reviewed
this motion in accordance with the requirements of a TRO.